

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

EDWARD HARPER

*Plaintiff,*

v.

SAKRIYE MAHAMUD MOHAMED and

J.B. HUNT TRANSPORT, INC.,

*Defendants.*

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CIVIL ACTION NO. 6:19-cv-421

JURY TRIAL DEMANDED

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**DEFENDANT J.B. HUNT TRANSPORT, INC.'S  
NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. § 1441, Defendant J. B. HUNT TRANSPORT, INC., hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendant sets forth the following "short and plain statement of the grounds for removal."

**A. THE REMOVED CASE**

1. The removed case is a civil action filed with the 369th Judicial District Court of Leon County, Texas, on June 10, 2019, styled Cause No. 19-0242CV; *Edward Harper v. Sakriye Mahamud Mohamed and J.B. Hunt Transport, Inc.*; In the 369<sup>th</sup> Judicial District Court of Leon County, Texas (the "State Court Action"). The case arises from an alleged injury sustained by Plaintiff that occurred on June 11, 2017 arising from a motor vehicle collision.

**B. DOCUMENTS FROM REMOVED ACTION**

2. Pursuant to Federal Rule of Civil Procedure 81 and 28 U.S.C. 1446(a), Defendant attaches the following documents to this Notice of Removal as *Exhibit "A"*:

- (i) A list of all parties in the case, their party type and current status;
- (ii) a civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g., complaints, amended complaints, supplemental complaints, petitions, counter-claims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);
- (iii) a complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by him/her;
- (iv) A record of which parties have requested a trial by jury; and
- (v) The name and address of the court from which the case is being removed.

**C. REMOVAL PROCEDURE**

3. Except as otherwise expressly provided by Act of Congress, any civil action brought in a State Court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending. 28 U.S.C. § 1441. The Waco Division of the Western District Court of Texas is the United States district and division embracing Leon County, Texas, the county in which the State Court Action is pending.

4. Defendant J.B. Hunt Transport, Inc., was served with process on June 18, 2019. Therefore, this Notice of Removal is filed within the time limits specified in 28 U.S.C. § 1446(b).

5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all pleadings and orders in the State Court Action as of the date of this pleading are attached hereto as *Exhibit "A"* and incorporated herein for all purposes.

6. Defendant will promptly give all parties written notice of the filing of this Notice of Removal and will promptly file a copy of this Notice of Removal with the Clerk of the 369th Judicial District Court of Leon County, Texas, where the action is currently pending.

**D. VENUE IS PROPER**

7. The United States District Court for the Western District of Texas is the proper venue for removal of the state court action pursuant to 28 U.S.C. § 1441(a) because the 369th Judicial District Court of Leon County, Texas, is located within the jurisdiction of the United States District Court for the Western District of Texas, Waco Division.

**E. COMPLETE DIVERSITY OF CITIZENSHIP EXISTS**

8. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

9. As admitted in her Petition, Plaintiff is an individual who resides in the State of Texas.<sup>1</sup>

10. Defendant J.B. Hunt Transport, Inc., is a foreign corporation organized and existing under the laws of the State of Georgia. Thus, pursuant to 28 U.S.C. § 1332(c)(1), J.B. Hunt Transport, Inc., is not a citizen of the State of Texas.

12. Defendant Sakriye Mahamud Mohamed is an individual who is a resident of Minnesota.<sup>2</sup> Thus, pursuant to 28 U.S.C. § 1332(a)(1), Sakriye Mahamud Mohamed is not a citizen of the State of Texas.

13. Defendant Sakriye Mahamud Mohamed consents to removal.

13. Because Plaintiff is a citizen of the State of Texas and neither Defendants are citizens of the State of Texas, complete diversity of citizenship exists pursuant to 28 U.S.C. § 1332. Therefore, the diversity of citizenship requirement is satisfied.

**F. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED**

14. Plaintiff alleges in her Original Petition that she seeks damages in monetary relief ranging from \$200,000 to \$1,000,000.<sup>3</sup> Plaintiff also seeks to recover damages against Defendant for (1) past and future medical expenses; (2) past and future pain, suffering and mental anguish; (3) past and future physical impairment; (4) past and future physical disfigurement; (5) past lost wages and future loss of earning capacity; and (6) exemplary damages for gross negligence.<sup>4</sup>

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<sup>1</sup> See Ex. A, Pl. Original Petition at ¶ 2.

<sup>2</sup> See Ex. A, Pl. Original Petition at ¶3.

<sup>3</sup> Pl. Ex. A, Original Petition at ¶ 6.

<sup>4</sup> Pl. Ex. A, Original Petition at ¶ 29.

13. Therefore, based on all of the aforementioned facts, the State Court Action may be removed to this Court by Defendant in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Western District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

#### **G. FILING OF REMOVAL PAPERS**

14. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the 335th Judicial District Court of Bastrop County, Texas, in which this action was originally commenced.

#### **H. CONCLUSION**

15. Defendant J.B. HUNT TRANSPORT, INC., hereby removes the above-captioned action from the 369th Judicial District of Leon County Texas, and requests that further proceedings be conducted in the United States District Court for the Western District of Texas, Waco Division, as provided by law.

Respectfully submitted,

**MAYER LLP**

4400 Post Oak Parkway, Suite 2850  
Houston, Texas 77027  
713.487.2000 / Fax 713.487.2019

By: Kevin P. Riley

**Kevin P. Riley**

*Attorney-in-Charge*

State Bar No. 16929100

E-Mail: [kriley@mayerllp.com](mailto:kriley@mayerllp.com)

**Raul I. Saenz**

State Bar No. 24093092

E-Mail: [rsaenz@mayerllp.com](mailto:rsaenz@mayerllp.com)

**ATTORNEYS FOR DEFENDANT  
LOWE'S HOME CENTERS, LLC**

**CERTIFICATE OF SERVICE**

This is to certify that on the 16<sup>th</sup> day of July 2019, a true and correct copy of the foregoing has been forwarded to all counsel of record as follows:

Lorin R. George  
Godsey Martin PC  
2950 North Loop West, Suite 570  
Houston, Texas 77092  
E-Mail: [GMLIT@gmfirm.com](mailto:GMLIT@gmfirm.com)

**ATTORNEYS FOR PLAINTIFF**

☐ E-MAIL/ E-SERVICE

☒ ECM

☐ HAND DELIVERY

☐ FACSIMILE

☐ OVERNIGHT MAIL

☐ REGULAR, FIRST CLASS MAIL

☐ CERTIFIED MAIL/ RETURN RECEIPT REQUESTED

/s/ Andrew J. Mihalick

Andrew J. Mihalick